

STATE OF INDIANA)
)
COUNTY OF MARION)
)
In Re Local Criminal Rules)

MARION CIRCUIT AND SUPERIOR
COURTS

Order Proposing Local Criminal Rules Amendments, Finding Good Cause to Deviate from the Schedule for Amending Local Court Rules, and Requesting Comments

The Judges of the Marion County Courts, pursuant to Trial Rule 81(D), now find that good cause exists to deviate from the schedule established by the Division of State Court Administration for the publishing of local rules and propose that the following local criminal rule amendments be adopted in compliance with the provisions of Trial Rule 81. Accordingly, the Court issues the following proposed amendments to the Criminal Law Local Rules and asks for comment from the bar and the public. Underlining indicates proposed additions and striking through indicates deletions.

Comments to these proposed Local Rules will be received through Noon on April 4, 2008. Comments to these proposed Local Rules should be e-mailed to the Office of the Court Administrator, c/o Glenn Lawrence, at Glawrenc@indygov.org, or mailed to:

Glenn Lawrence
Office of the Court Administrator
Marion County Circuit and Superior Courts
200 East Washington St., Ste. T-1221
Indianapolis, IN 46204.

All of the above is so ORDERED this 3rd day of March, 2008.

/s/ Gerald S. Zore*
Judge Gerald S. Zore
Presiding Judge

* Original signature on file with the Court.

LR49-CR00-108. BAIL

Bail shall be set in accordance with ~~the this~~ Marion Superior Court Rule ~~on Admission to Bail and Pretrial Release as amended and subject to changes by judicial order.~~

The Marion Superior Court ~~has adopted as a tool for setting an appropriate bail the Northpointe COMPAS Risk Assessment software application. Will use an appropriate risk assessment tool and T~~the Bail Guideline Matrix ~~herein is designed~~ to provide information and guidance to the Probation Staff and judicial officers of the Arrestee Processing Center (APC) in setting the initial bail or in altering bail amounts, ~~in order to maintain compliance with the federal court order governing population limits in the Marion County Jail.~~ The individual Judges, Magistrates and Commissioners of the Marion Superior Court retain discretionary authority to adjust bail as individual circumstances may require. ~~This discretionary authority to set or alter bail is limited; however, to those individuals, whose cases are under the direct jurisdiction of a specific Judge, Magistrate or Commissioner.~~

GENERAL PROVISIONS

~~The COMPAS Risk Assessment tool is a computerized database and analysis system developed from many years of research into criminological factors surrounding the commission of crimes. Detailed statistical modeling was also employed to ensure a scientific basis for the criminological factors and the risk an individual poses for four distinct categories of behavior—violence, recidivism, flight (failure to appear) and non-compliance (technical violations).~~

~~COMPAS is based on a series of questions and answers provided by each individual brought to the Arrestee Processing Center (APC) following an arrest for a criminal offense. The questionnaires used in this process are set forth in Appendix B which is made part of this rule. Verification of the information provided shall be attempted by Probation staff of the Marion Superior Court. For purposes of the Bail Guideline Matrix, the Marion Superior Court is using only the risk factors of violence and failure to appear (FTA).~~

CHARGE SEVERITY LEVELS

There shall be six charge severity levels for misdemeanors and felonies as set forth in Appendix A which is a part of this Rule.

COMPAS RISK ASSESSMENT FACTORS

Based upon the questions asked of individuals arrested for criminal offenses at the APC and the information provided and verified, the COMPAS risk assessment tool will generate a ~~violence factor and an FTA factor~~ risk assessment score for each person.

~~There are seven separate violence categories ranging from a low of 1 to a maximum of 10. There are 3 separate FTA categories in ranges from 1-3, 4-7, and 8-10.~~

BAIL GUIDELINES MATRIX

The amount of recommended bail or an individual's eligibility for release on his or her ~~personal-own~~ recognizance ~~(OR) or the pretrial conditions established for an individual's release~~ are reflected in the Bail Guideline Matrix set out in Appendix ~~C-B~~ and made a part of this Rule. The Matrix applies the charge severity levels to the ~~COMPAS-risk assessment Risk Factors score~~. The Matrix recommends release, ~~release to pretrial with conditions, release to Marion County Community Corrections~~ and bail amounts. ~~The Matrix provides an option to either set a bail amount or a release with conditions in consideration of the charge severity and COMPAS Risk Factors.~~

APC INITIAL HEARING COURT

The initial hearings for all individuals brought to the APC as a result of an arrest for a criminal offense and for which misdemeanor and/or D felony charges are filed shall be conducted by the judicial officers at the APC Court. All other felony charges and all of the charges filed against an individual after that individual has been released from the APC shall be heard in an initial hearing conducted in the Court where the case was ~~randomly~~ assigned pursuant to Local Rule.

Any individual who remains in custody following his or her initial hearing at the APC Court shall have a bond hearing or pretrial conference scheduled in the Court where the case has been ~~randomly~~ assigned for the next available date consistent with the Judge's scheduling order. For all domestic violence cases where an individual remains in custody following the initial hearing at the APC Court, a bond hearing shall be scheduled within four business days from the date of the initial hearing in the Court where the case has been ~~randomly~~ assigned, ~~within the 72-hour deadline established by state statute.~~

INMATE MANAGEMENT RELEASES

~~The Marion Superior Court is committed to ensuring the Marion County Jail remains in compliance with a Federal Court Order establishing population limits. The judicial officers assigned to the APC Court, under the direct supervision of designated judges and the Executive Committee of the Superior Court shall have the authority and discretion to adjust bail and set release conditions on any individual subject to the Court's jurisdiction for purposes of maintaining the population of the jail within the limitations of the federal order.~~

~~In making decisions to adjust bail or set release conditions, the judicial officers of the APC shall confer with officials of the Marion County Sheriff's Department to determine the number of bail adjustments or releases that are required on a particular date. The APC judicial officers shall only adjust bail and release individuals from the jail to accommodate the Sheriff's specific request for relief in meeting the federal limit. The Judicial officers, when making these decisions, shall use all reasonably available~~

~~information, including but not limited to, COMPAS Risk Factors and the Bail Guidelines Matrix, court files, case chronologies, probation files and the Sheriff's jail management system.~~

BAIL POSTINGS

Judges, Magistrates and Commissioners (Judicial Officers) shall have the ability to determine the appropriate bond type for each individual charged with a criminal offense.

~~If a judicial officer specifies the bond be a cash bond (CS) then one hundred percent (100%) of the bond amount must be posted in cash. Cash bonds shall not be interchangeable with any other bond type.~~

If a judicial officer specifies the bond be a surety bond (SR), only a licensed bonding agent may post the bond for that individual. Surety bonds shall not be interchangeable with any other bond types, ~~however it may be paid by posting the full amount as a cash bond (CS).~~

~~If a judicial officer specifies the bond be a cash bond (CS) then one hundred percent (100%) of the bond amount must be posted in cash. Cash bonds shall not be interchangeable with any other bond type.~~

If a judicial officer specifies the bond be a ten percent (10%) ~~cash-percent refundable~~ bond (PR) the bond may be satisfied by posting a PR, SR or CS bond.

Judicial officers have the authority to require a combination of different bond types to satisfy a single bail in an individual situation. The posting of such a split bond must satisfy the requirements of this section.

~~COMPAS OFFICIAL RECORDS DATA QUESTIONNAIRE~~~~Scale Set: Pre-Trial Scale Question Language: General (in Community) English Language Self-Report Section Two Parts~~~~Screener: _____ Agency: _____ Date: _____~~~~To be completed by the screener~~~~Offender Name: _____ Offender #: _____~~~~DOB: _____ Sex: _____ Ethnic/Race: _____ SSN: _____~~~~CURRENT CHARGES~~~~Note to Officer: Please reference the software Help Menu regarding any clarification to questions in this section. (1-4)~~~~What kind of offenses are covered by these charges? (Check all that apply)~~

_____ Assault	_____ Weapons	_____ Fraud	_____ Fail to Appear
_____ Robbery	_____ Drug Trafficking	_____ Domestic Violence	_____ Homicide
_____ Sex Offense	_____ Drug Possession/Use	_____ Drunk Driving	_____ Other
_____ Sex Without Force	_____ Property	_____ Non-Support	

~~1. Number of current charges or offenses of conviction?~~~~Answers: _____ 1 _____ 2 _____ 3 _____ 4 _____ 5 _____ 6+~~~~2. What current offense category represents the most serious charge?~~~~Answers: _____ Misd. _____ NonAsslt Fel _____ Asslt Fel~~~~3. Was there physical injury to the victim?~~~~Answers: _____ Yes _____ No~~~~4. Number of other pending holds or charges?~~~~Answers: _____ 0 _____ 1 _____ 2 _____ 3 _____ 4+~~~~CRIMINAL HISTORY~~~~Exclude the current charge/conviction for these questions. Press F1 (help) for further clarification. (5-16)~~~~5. How many times has the offender been convicted as an adult and/or adjudicated as a youthful offender before?~~~~Answers: _____ 0 _____ 1 _____ 2 _____ 3-4 _____ 5-10 _____ 11+~~~~6. How many times has offender been arrested for assaultive felonies as an adult?~~~~Answers: _____ 0 _____ 1 _____ 2 _____ 3 _____ 4 _____ 5+~~~~7. Was the offender charged with an assaultive felony as a juvenile?~~~~Answers: _____ Yes _____ No~~~~8. Regarding any history of arrest for assaultive felonies as an adult or juvenile, how many times were there physical injuries to victims?~~~~Answers: _____ 0 _____ 1 _____ 2 _____ 3 _____ 4 _____ 5+~~~~9. How many times has the offender been jailed in the past (pre- or post-sentence)?~~~~Answers: _____ 0 _____ 1 _____ 2 _____ 3-7 _____ 8-12 _____ 13+~~

10. Has the offender ever gotten tickets or write-ups for fighting/threatening other inmates?

Answers: ☐ Yes ☐ No

Note to Officer: The following questions require you to add up the total number of specific kinds of offenses in the offender's criminal history.

11. How many prior homicide/manslaughter arrests or convictions?

Answers: ☐ 0 ☐ 1 ☐ 2 ☐ 3+

12. How many prior arrests or convictions for assault other than homicide/manslaughter?

Answers: ☐ 0 ☐ 1 ☐ 2 ☐ 3+

13. How many prior robbery arrests or convictions?

Answers: ☐ 0 ☐ 1 ☐ 2 ☐ 3+

14. How many prior weapons offense arrests or convictions?

Answers: ☐ 0 ☐ 1 ☐ 2 ☐ 3+

15. How many prior family violence arrests or convictions?

Answers: ☐ 0 ☐ 1 ☐ 2 ☐ 3+

16. How many prior sex offense (with force) arrests or convictions?

Answers: ☐ 0 ☐ 1 ☐ 2 ☐ 3+

NON-COMPLIANCE

Exclude the current charge/conviction for these questions. Press F1 (help) for further clarification (17-20)

17. How many times has the offender failed to appear for court appearances?

Answers: ☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5+

18. How many times has the offender been arrested/charged w/new crime while on pretrial release (includes current)?

Answers: ☐ 0 ☐ 1 ☐ 2 ☐ 3+

19. How many times has the offender been on probation?

Answers: ☐ 0 ☐ 1 ☐ 2 ☐ 3 ☐ 4-5 ☐ 6+

20. How many times has offender had a new charge/arrest while on probation/parole?

Answers: ☐ 0 ☐ 1 ☐ 2 ☐ 3+

~~Offender Interview / Self Report Questionnaire~~

~~Offender Name: _____ Date: _____~~

~~21. How often do you have contact with your family (may be in person, phone, mail)?~~

~~Answers: ☐ No family ☐ Never ☐ Less than once/month ☐ Once per week ☐ Daily~~

~~22. How often have you moved in the last twelve months?~~

~~Answers: ☐ Never ☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5+~~

~~23. Do you have a regular living situation (an address where you routinely stay and can be reached)?~~

~~Answers: ☐ Yes ☐ No~~

~~24. How long have you been living at your current address?~~

~~Answers: ☐ 0-5 mos ☐ 6-12 mos ☐ 1-3 Yrs ☐ 4-5 Yrs ☐ 6+ Yrs~~

~~25. Is there a telephone at this residence (a cell phone is an appropriate alternative)?~~

~~Answers: ☐ Yes ☐ No~~

~~26. Can you provide a verifiable residential address?~~

~~Answers: ☐ Yes ☐ No~~

~~27. How long have you been living in that community or neighborhood?~~

~~Answers: ☐ 0-2 mos. ☐ 3-5 mos. ☐ 6-11 mos. ☐ 1+ yrs~~

~~28. Do you live with family - natural parents, primary person who raised you, blood relative, spouse, children, or boy/girl friend if living together for more than 1 year?~~

~~Answers: ☐ Yes ☐ No~~

~~29. Do you live with friends?~~

~~Answers: ☐ Yes ☐ No~~

~~30. Do you live alone?~~

~~Answers: ☐ Yes ☐ No~~

~~31. Do you have an alias (do you sometimes call yourself by another name)?~~

~~Answers: ☐ Yes ☐ No~~

Charge Severity Level

	1	2	3	4	5	6
0	OR	OR	OR	\$1,000	\$2,500	\$5,000
1	OR	OR	\$1,000	\$2,500	\$5,000	\$10,000
2	OR	OR	\$2,000	\$3,500	\$7,500	\$15,000
3	\$500	\$1,000	\$2,500	\$5,000	\$10,000	\$20,000
4	\$750	\$1,500	\$3,000	\$7,500	\$15,000	\$30,000
5	\$1,500	\$2,000	\$3,500	\$10,000	\$30,000	\$50,000
6	\$2,000	\$3,500	\$7,500	\$20,000	\$50,000	\$80,000
7	\$5,000	\$10,000	\$20,000	\$50,000	\$80,000	\$100,000
8	\$10,000	\$20,000	\$40,000	\$100,000	\$150,000	\$200,000

On Probation or Parole, or charged with Murder: NO BOND
 Fail to complete assessment: use Risk Assessment Score
 6.